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July 16, 2020

**VIA ECF**Honorable Margo K. Brodie  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201Re: *Federal Defenders of New York, Inc. v. Federal Bureau of Prisons, et al.*, No. 19-cv-00660 (E.D.N.Y.)

Dear Judge Brodie:

I write to update the Court on the parties' ongoing efforts to address several of the important issues raised in this litigation through mediation.

**I. Background**

Since my July 9, 2020 report to the Court, I have had a joint call with counsel for Federal Defenders, Inc., along with their representatives and with counsel for

the government and representatives of the Metropolitan Detention Center (“MDC”) and Metropolitan Correctional Center (“MCC”).<sup>1</sup>

This week, my conversations with the Federal Defenders and the government have focused on the following topics:

1. The current status of in-person legal visitation at both institutions.
2. The execution of the current protocol for scheduling and placing attorney-client phone calls at the MDC and the MCC.

## **II. Telephonic Contact**

The parties continue to schedule and facilitate legal phone calls under the Court Protocol for Attorney Calls and Teleconference Hearings. Pursuant to the Protocol, attorney-client calls were scheduled by Federal Defenders for afternoon slots of one-half hour each from 12pm to 3pm at the MDC and 1 to 3:30 pm at the MCC. As Your Honor is aware, the parties have also made efforts to expand legal call hours beyond the times provided in the Protocol. *See* ECF Nos. 70 & 76.

### **A. MCC**

According to the information I have from MCC, MCC scheduled 150 calls between July 10 and July 15, 2020. 143 calls were completed, five calls were attempted but not completed, one call was cancelled at the attorney’s request, and one call was cancelled because the inmate left the facility. Federal Defenders report several privacy concerns with calls at MCC this week. I will review these with the parties.

### **B. MDC**

According to the information I have from the MDC, MDC scheduled 198 calls between July 10 and July 15, 2020. 177 of these were completed, nine were attempted but not completed, three were cancelled or rescheduled at the attorneys’ request, and one call was cancelled for unknown reasons. There were eight calls for which we do not have completion information and I have followed up with the institution for more information. Additionally, Federal Defenders report that, as of July 14, 2020, there were twenty-seven call or VTC requests awaiting scheduling for forty-eight hours or more at MDC, down from forty-nine such requests pending on July 7 of last week. *See* ECF No. 79 at p. 3. Federal Defenders further report that overflow calls would have been higher but for the facilitation of evening calls at MDC.

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<sup>1</sup> We held a joint call on July 15, 2020.

### **III. Videoconferencing**

#### **A. MCC**

According to MCC records, there were twenty-five videoconferences scheduled to take place this week. Twenty-four were completed as scheduled. One was cancelled or rescheduled at the attorney's request. Federal Defenders report several privacy concerns with videoconferences at MCC this week. I will review these with the parties.

#### **B. MDC**

According to MDC records, there were thirty-two videoconferences scheduled to take place this week using MDC's VTC units. Twenty-six were completed as scheduled, three were attempted but not completed because the inmate declined to participate, and one was rescheduled at the attorney's request. There were two videoconferences scheduled for which we do not have completion information and I have followed up with the institution for more information. MDC also reports that there were nine videoconferences scheduled this week using the Brooklyn courthouse video system. Six of these were completed, one was not completed because of an administrative error, and two were not completed because of technical difficulties.

### **IV. In-Person Visitation**

The parties continue to discuss the logistics entailed by the planned resumption of in-person visitation. This week the MCC provided a draft plan for in-person visitation to begin the consultation process with Federal Defenders. Federal Defenders provided additional substantive comments on the MDC's draft plan as well as initial comments on the MCC plan. During this week's mediation call the parties continued to discuss the specifics of both plans and potential modifications. The parties will continue to provide feedback this coming week as well as continue discussions.

Respectfully,

/s/ Loretta E. Lynch  
Loretta E. Lynch

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